

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

Cheetah Omni LLC,

*Plaintiff,*

v.

Alcatel-Lucent USA Inc., et al.,

*Defendants.*

Case No. 6:11-cv-390

**ORDER**

Before the court is plaintiff Cheetah Omni LLC's ("Cheetah") Motion for Clarification of the Rule 54(b) Final Judgment as to the Tellabs Defendants (Tellabs, Inc., Tellabs Operations, Inc., and Tellabs North America, Inc., collectively "Tellabs"), ECF No. 438.

Cheetah's motion asks the court to clarify that the Rule 54(b) final judgment, ECF No. 434, does not include any its claims against Tellabs under U.S. Patent No. 6,847,479 ("the '479 patent"). Proceedings related to the '479 patent have been indefinitely stayed pursuant to an injunction in another lawsuit. *See* Order Partially Staying Case, ECF No. 186. In this respect, Cheetah's motion is **GRANTED IN PART**. The Rule 54(b) final judgment and the Order and Opinion granting Tellabs' motion for summary judgment, ECF No. 431, shall be amended. All deadlines with respect to those documents shall be calculated from the original filing dates.

Cheetah's motion also asks the court to clarify "that the Court will not determine 'the prevailing party' [for purposes of attorney's fees] until after resolving the '479 patent issues." Motion for Clarification 1. Cheetah's arguments must be presented in opposition to a motion for

attorney's fees. No motion for attorney's fees has yet been filed. Thus, in this respect, Cheetah's motion is premature, and is **DENIED IN PART**.

Signed and ordered February 21, 2014.

A handwritten signature in black ink, appearing to read "Timothy B. Dyk", written over a horizontal line.

Hon. Timothy B. Dyk  
United States Circuit Judge\*

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\* Of the United States Court of Appeals for the Federal Circuit, sitting by designation.